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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I

5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

OCT 21 2011

Mr. Erik Bankey  
Project Manager, Capital Programs and Environmental Affairs  
Logan Office Center  
Massachusetts Port Authority  
One Harborside Drive, Suite 200S  
East Boston, Massachusetts 02128

Re: PCB Risk-Based Disposal Approval under § 761.61(c)  
Former Schiavone Property- Moran Terminal  
Charlestown, Massachusetts  
RTN: 3-0694

Dear Mr. Bankey:

This is written in response to the Massachusetts Port Authority (Massport) Notification<sup>1</sup> for approval of a proposed PCB risk-based disposal for its property located at 100 Terminal Street, Charlestown, Massachusetts. A 12-acre portion of the property known as the Former Schiavone Property (hereinafter "the Site"), was previously closed under the Massachusetts Contingency Plan (MCP) with a Response Action Outcome (RAO) and an Activity and Use Limitation (AUL) in 1997.

On October 20, 2009, EPA issued a Risk-Based Disposal Approval to address PCB-contaminated soils located in the construction area for the Wind Technology Testing Center (WTTC). The area of the property which was impacted by the WTTC construction activities (approximately 1.1 acres) is located within the 12-acre area previously closed under the MCP.

Massport has requested approval under 40 CFR § 761.61(c) to leave PCB-contaminated soil at greater than (>) 1 part per million (ppm) on the Site beneath the existing concrete cap. Massport will maintain the existing concrete cap but will update the existing Activity and Use Limitation (AUL), which will prohibit use of the Site for residences, day care or agricultural purposes; will include provisions to perform future utility work and excavation; and, will mandate maintenance of the concrete cap.

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<sup>1</sup> Information was submitted on behalf of Massport by GEI Consultants, Inc. to satisfy the notification requirement under 40 CFR § 761.61(c). Information was provided dated August 2011 (Risk-Based Cleanup Plan) and October 19, 2011 (e-mails to clarify site boundaries and size). These submittals will be referred to as the "Notification".



Based on EPA's review of the information provided by Massport, EPA finds that disposal of PCB-contaminated soil in-place beneath the existing concrete cap will not create an unreasonable risk to public health or the environment. EPA applies this reasonable risk standard in accordance with the PCB regulations at 40 CFR § 761.61(c), and the Toxic Substances Control Act, at 15 USC § 2605(e).

Massport may proceed with its project in accordance with 40 CFR § 761.61(c); its Notification; and, this Approval, subject to the conditions of Attachment 1. Please note that this Approval only addresses PCB-contaminated soils located under the existing concrete cap and within the Site Boundary as identified in Figure 2a of the October 19, 2011 electronic transmittal. In the event that PCBs exceeding the allowable concentrations for unrestricted use are present in other locations on the property, a separate plan to address this contamination will be required in accordance with 40 CFR § 761.61.

Questions and correspondence regarding this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator (OSRR07-2)  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527

This Approval may be revoked, suspended and/or modified as described in Attachment 1 if the EPA determines that implementation of this Approval may present an unreasonable risk of injury to health or the environment. Nothing in this Approval is intended or is to be construed to prejudice any right or remedy concerning PCBs or other federally-regulated contaminants at the Site otherwise available to the EPA under Section 6 of TSCA, 15 U.S.C. 2605, 40 CFR Part 761, or other provisions of federal law.

EPA shall not consider this project complete until it has received all submittals required under this Approval. Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,



James T. Owens III, Director  
Office of Site Remediation & Restoration

cc I. Gladstone, GEI  
Mass DEP - NERO  
File

Attachment 1



**ATTACHMENT 1:**

**PCB RISK-BASED DISPOSAL APPROVAL CONDITIONS  
FORMER SCHIAVONE PROPERTY – MORAN TERMINAL  
CHARLESTOWN, MASSACHUSETTS**

**GENERAL CONDITIONS**

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to *PCB remediation waste* identified in the Notification.
2. The Massachusetts Port Authority (Massport) shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
3. In the event that the activities described in the Notification differ from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. Massport must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill of PCBs during these actions, Massport shall contact EPA within 24 hours for direction on sampling and cleanup requirements.
6. Massport is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time Massport has or receives information indicating that Massport or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.
7. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release Massport from compliance with any applicable requirements of federal, state or local law; or 3) release Massport from liability for, or otherwise resolve any violations of federal, state or local law.

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<sup>2</sup> Information was submitted on behalf of Massport by GEI Consultants, Inc. to satisfy the notification requirement under 40 CFR § 761.61(c). Information was provided dated August 2011 (Risk-Based Cleanup Plan) and October 19, 2011 (emails to clarify site boundaries and size). These submittals will be referred to as the "Notification".



**NOTIFICATION AND CERTIFICATION CONDITIONS**

8. This Approval may be revoked if the EPA does not receive written notification from Massport of its acceptance of the conditions of this Approval within 10 business days of receipt.

**INSPECTION, MODIFICATION AND REVOCATION CONDITIONS**

9. Massport shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by Massport to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
10. Any modification(s) in the plan, specifications, or information submitted by Massport, contained in the Notification, and forming the basis upon which this Approval has been issued, must receive prior written approval from the EPA. Massport, as applicable, shall inform the EPA of any modification, in writing, at least 10 days prior to such change. No action may be taken to implement any such modification unless the EPA has approved of the modification, in writing. The EPA may request additional information in order to determine whether to approve the modification.
11. If such modification involves a change in the use of the Site which results in exposures not considered in the Notification, the EPA may revoke, suspend, and/or modify this Approval if it finds that this risk-based cleanup and disposal action may pose an unreasonable risk of injury to health or the environment due to the change in use. EPA may take similar action if the EPA does not receive requested information from Massport, as applicable, needed to make a determination regarding potential risk.
12. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
13. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.



14. Approval for these activities may be revoked, modified or otherwise altered at any time EPA finds a violation of the conditions of this Approval or of 40 CFR Part 761 or other applicable rules and regulations; if EPA finds that these activities present an unreasonable risk to public health or the environment; or if EPA finds that changes are necessary to comply with new rules, standards, or guidance for such approvals. Massport may apply for such a modification in the event new rules, standards, or guidance comes into effect.

#### **DEED RESTRICTION AND USE CONDITIONS**

15. Massport shall submit for EPA review and approval, a draft deed restriction (or updated activity and use limitation (AUL)) for the Site. Within forty-five (45) days of receipt, EPA shall, in writing, review and approve the draft deed restriction, approve with minimal conditions, or request specific changes. If EPA requests specific changes, Massport shall submit a revised draft deed restriction for EPA review and approval within thirty (30) days of EPA's request. The deed restriction shall include: a description of the extent and levels of contamination at the Site; a description of the actions taken at the Site; a description of the use restrictions for the Site; and the long-term monitoring and maintenance requirements on the Site. The long-term monitoring and maintenance shall include: a description of the activities that will be conducted, including inspection criteria, frequency, and routine maintenance activities; sampling protocols, sampling frequency, and analytical criteria; and EPA reporting requirements.
16. Within thirty (30) days of receipt of EPA's approval of the draft deed restriction (or updated AUL), the deed restriction shall be signed and recorded. A copy of this Approval shall be attached to the deed restriction, but the specific terms of the deed restriction (and not the Approval) shall govern any issue of interpretation of the deed restriction.
17. Massport and any subsequent owner, lessee, or transferee seeking the benefit of this Approval, shall notify the EPA of the sale, lease or transfer of any portion of the Site, in writing, no later than thirty (30) days prior to any sale, lease or transfer. This notification shall include the name, address, and telephone number of the new owner(s), lessee(s) or transferee(s). In the event that Massport sells, leases or transfers any portion of the Site, Massport shall continue to be bound by all the terms and conditions of this Approval, except as provided below. EPA may allocate some or all of this Approval's responsibilities to a new owner, lessee or transferee through the issuance of a modification of this Approval ("New Owner Modification") as follows:
  - a. Massport and the new owner(s), lessee(s) or transferee(s) must request, in writing, that the EPA issue a New Owner Modification to the new owner(s), lessee(s) or transferee(s) which transfers some or all responsibilities to comply with the terms and conditions of this Approval to that entity or entities;



- b. The EPA reviews the request, and determines whether to issue a New Owner Modification;
  - c. EPA provides a draft New Owner Modification for comment by the requesting party(ies) and, following its receipt and review of any written comments, if acceptable, EPA shall provide the final New Owner Modification to the party(ies); and,
  - d. The new owner(s), lessee or transfer entity provides written notification to the EPA of its acceptance of and intention to comply with the terms and conditions of the final New Owner Modification. The New Owner Modification may be withdrawn if the EPA does not receive written notification from the new owner(s), lessee(s) or transferee(s) of its acceptance of, and intention to comply with, the terms and conditions of the New Owner Modification within thirty (30) days of the date of the New Owner Modification. Under such circumstances, all terms and conditions of this Approval will continue to be binding on Massport.
18. In the event that the sale, lease or transfer of the Site will involve or result in a change in the use of the Site, EPA may revoke, suspend, and/or modify this Approval or the New Owner Modification if it finds, due to the change in use, that this risk-based disposal action will not be protective of health or the environment. The new owner shall record any amendment to the deed restriction, resulting from any approved modification(s), within sixty (60) days of such change(s). To be effective in amending the original deed restriction as it may apply to Massport, the New Owner must secure the agreement and consent of Massport to amend the deed restriction, and obtain any necessary subordinations of prior recorded interests that may be affected by the terms of the amended deed restriction.
19. In any sale, lease or transfer of the Site, Massport shall retain sufficient access rights to enable it to continue to meet the obligations under this Approval for long-term maintenance and monitoring of the Site, except as provided otherwise in a re-issued approval.

#### **RECORDKEEPING AND REPORTING CONDITIONS**

20. Massport shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required under Subparts J and K, in one centralized location. All records and documents shall be made available for inspection by authorized representatives of the EPA, until such time as EPA approves in writing a request for an alternative disposition of such records.



21. Massport shall submit a Final Completion Report (Report) to the EPA within 60 days of completion of the activities described under this Approval. At a minimum, this Report shall include: a short narrative of the project activities; characterization and confirmation sampling analytical results; copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCBs removed and disposed of off-site, if applicable; copies of manifests, as applicable; and copies of certificates of disposal or similar certifications issued by the disposer, as applicable. Massport shall also submit any additional report required by the Massachusetts Department of Environmental Protection and the Massachusetts Contingency Plan.
22. Massport shall submit the results of the long-term maintenance and monitoring activities to EPA as specified in the deed restriction to be approved by EPA pursuant to Condition 15.
23. Required submittals shall be mailed to:  
  
Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100 – (OSRR07-2)  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527
24. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self disclosure or penalty policies.

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**END OF ATTACHMENT 1**





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION I**  
**1 CONGRESS STREET, SUITE 1100, BOSTON, MASSACHUSETTS 02114-2023**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**OCT 20 2009**

Mr. Houssam Sleiman  
Director for Capital Programs and Environmental Affairs  
Logan Office Center  
Massachusetts Port Authority  
One Harborside Drive, Suite 200S  
East Boston, Massachusetts 02128

Re: PCB Risk-Based Disposal Approval under § 761.61(c)  
Wind Technology Testing Center at Moran Terminal  
Charlestown, Massachusetts  
RTN: 3-0694

Dear Mr. Sleiman:

This is written in response to the Massachusetts Port Authority (Massport) Notification<sup>1</sup> for approval of a proposed PCB risk-based disposal for its property located at 100 Terminal Street, Charlestown, Massachusetts. A 12-acre portion of the property was previously closed under the Massachusetts Contingency Plan (MCP) with a Response Action Outcome (RAO) and an Activity and Use Limit (AUL) in 1997.

Massport is proposing to construct the Wind Technology Testing Center (WTTC) on the property. This effort is being coordinated with the Massachusetts Clean Energy Center (MCEC) and its partner, the Department of Energy. The area of the property which will be impacted by the WTTC construction activities (approximately 1.1 acres) is located within the 12-acre area previously closed under the MCP. This 1.1-acre area (hereinafter "the Site") has PCB-contaminated soils at greater than (>) 1 part per million beneath the existing concrete slab. Massport has proposed a risk-based plan under § 761.61(c) to manage the PCB-contaminated soils at the Site which includes the following:

<sup>1</sup> Information was submitted on behalf of Massport by GEI Consultants, Inc. to satisfy the notification requirement under 40 CFR § 761.61(c). Information was provided dated September 2009; September 22, 2009 (e-mail); September 28, 2009 (e-mail); October 5, 2009 (e-mail); October 11, 2009 (e-mail); October 14, 2009 (e-mail); and October 15, 2009 (e-mail). These submittals and will be referred to as the "Notification."



- Excavation of PCB-contaminated soils located within the areas where new foundations, drain systems, and utility corridors (electric, gas, etc) will be constructed;
- Disposal of  $\geq 50$  ppm PCBs soils at a TSCA-approved or hazardous waste disposal facility in accordance with § 761.61(a)(5)(i)(B)(2)(iii);
- On-site disposal of greater than ( $>$ ) 2 ppm and less than ( $<$ ) 50 ppm PCB soils within the storm drain trench where a new 36-inch storm drain pipe is being installed; as backfill around the oil/gas separator or within the building footprint; or, alternatively the soils will be disposed of at a state-approved facility in accordance with § 761.61(a)(5)(i)(B)(2)(ii) or § 761.61(a)(5)(i)(B)(2)(iii);
- On-site disposal of less than or equal to ( $\leq$ ) 2 ppm PCB soils within the utility trench as backfill;
- Recapping of the building footprint with a minimum of 18-inches of concrete and re-capping adjacent to the building and the drain and utility trench areas with a minimum of 6-inches of concrete;
- PCB-contaminated soils at  $> 1$  ppm, which are located beneath the existing cap and which do not require excavation for construction of the WTTC shall remain undisturbed; and,
- The existing Activity and Use Limitation (AUL) will remain in-place, which will prohibit use of the Site for residential or other high-end uses and which will require maintenance of the concrete slab.

Based on EPA's review of the data and the 1997 AUL, the proposed redevelopment and use, and the physical control (i.e. cap) which will be in-place, EPA finds that the activities proposed in the Notification will create no unreasonable risk to public health or the environment following completion of Site activities. EPA applies this reasonable risk standard in accordance with the PCB regulations at 40 CFR § 761.61(c), and the Toxic Substances Control Act, at 15 USC § 2605(e).

Massport may proceed with its project in accordance with 40 CFR §§ 761.61(a) and(c); its Notification; and, this Approval, subject to the conditions of Attachment 1. EPA is reserving its rights to require additional cleanup measures should it determine that PCB contamination at the Site poses a risk to public health or the environment. Please note that per Attachment 1, Condition 12, PCB-contaminated soils with  $> 2$  ppm may not be placed around the oil/gas separator.

In the Notification Massport indicates that additional samples have been collected in several areas due to a change in the final design and the results are pending. While these samples were collected in the same manner as the samples provided in the Notification, EPA is requiring that these results be submitted for EPA's review to insure that the proposed approach for these areas is consistent with the approach described in the Notification and authorized under this Approval (see Attachment 1, Condition 11).


Questions and correspondence on this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
1 Congress Street, Suite 1100 - CPT  
Boston, Massachusetts 02114-2023  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527

Please note that this Approval only addresses PCB contamination located within the area where the WTTTC is being constructed. In the event that PCBs exceeding the allowable concentrations for unrestricted use are present in other locations on the property where redevelopment is planned, separate plan(s) to address this contamination will be required in accordance with 40 CFR § 761.61.

EPA shall not consider this project complete until it has received all submittals required under this Approval. Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,

  
James T. Owens, III, Director  
Office of Site Remediation & Restoration

cc R. Yarala, MCEC  
I. Gladstone, GEI  
Mass DEP - NERO  
Charlestown Neighborhood Council  
File

Attachment 1



**ATTACHMENT 1:**

**PCB RISK-BASED DISPOSAL APPROVAL  
WIND TECHNOLOGY TESTING CENTER (WTTC) – MORAN TERMINAL  
100 TERMINAL STREET  
CHARLESTOWN, MASSACHUSETTS**

**GENERAL CONDITIONS**

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to *PCB remediation waste* identified in the Notification.
2. The Massachusetts Port Authority (Massport) shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
3. In the event that the activities described in the Notification differ from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. Massport must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill of PCBs during these actions, Massport shall contact EPA within 24 hours for direction on sampling and cleanup requirements.
6. Massport is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time Massport has or receives information indicating that Massport or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.
7. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by Massport are authorized to conduct the activities set forth in the Notification. Massport is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.



8. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release Massport from compliance with any applicable requirements of federal, state or local law; or 3) release Massport from liability for, or otherwise resolve, any violations of federal, state or local law.

### **NOTIFICATION AND CERTIFICATION CONDITIONS**

9. This Approval may be revoked if the EPA does not receive written notification from Massport of its acceptance of the conditions of this Approval within 10 business days of receipt.
10. Massport shall notify EPA in writing of the scheduled date of commencement of on-site activities at least 1 business day prior to conducting any work under this Approval.
11. Prior to initiating onsite work under this Approval, Massport shall submit the following information:
- a. a certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the analytical and quality assurance requirements specified in the Notification and in this Approval;
  - b. a certification signed by its selected remediation contractor, stating that the contractor has read and understands the Notification, and agrees to abide by the conditions specified in this Approval; and,
  - c. the analytical results of any additional samples which have been collected for PCB analysis and which were not included with the Notification.

### **REMEDIAL and DISPOSAL CONDITIONS**

12. PCB-contaminated soils which shall be excavated during construction of new foundations, drain systems, and utility corridors (electric, gas, etc) shall be disposed of as follows:
- a. Greater than or equal to ( $\geq$ ) 50 ppm PCBs soils shall be disposed at a TSCA-approved or hazardous waste disposal facility in accordance with § 761.61(a)(5)(i)(B)(2)(iii).
    - (1) Following excavation of the greater than or equal to ( $\geq$ ) 50 ppm PCB-contaminated soils, sampling shall be conducted in accordance with Subpart O to confirm that all  $\geq$  50 ppm PCB-contaminated soils have been removed prior to removal of the



less than ( $<$ ) 50 ppm PCB-contaminated soil. Composite sampling may not be conducted to confirm that the  $\geq$  50 ppm PCB-contaminated soil has been removed. Samples shall be collected from both excavation bottoms and sidewalls, as applicable.

- (2) Confirmatory samples shall not be required at the limits of the foundation or trench excavations.

- b. Greater than ( $>$ ) 2 ppm and  $<$  50 ppm PCB soils shall be disposed of within and/or adjacent to the building footprint, including the interior perimeter subslab drains; disposed of within the storm drain trench where a new 36-inch storm drain pipe is being installed; or, alternatively, the soils shall be disposed of in accordance with § 761.61(a)(5)(i)(B)(2)(ii) or § 761.61(a)(5)(i)(B)(2)(iii).

- (1) Following removal of the  $>$  2 ppm and  $<$  50 ppm PCB soils, confirmatory sampling shall be conducted in accordance with Subpart N to confirm that PCBs at  $>$  2 ppm have been removed prior to excavation of the  $\leq$  2 ppm PCB-contaminated soils. Samples shall be collected from both excavation bottoms and sidewalls, as applicable.

- (2) Confirmatory samples shall not be required at the limits of the foundation or trench excavations.

- c. Less than or equal to ( $\leq$ ) 2 ppm PCB soils shall be disposed of within the utility trench; disposed of around the oil/gas separator; disposed of beneath the building footprint; or, disposed of within the storm drain trench described above. Alternatively, these soils may be disposed of in accordance with § 761.61(a)(5)(i)(B)(2)(ii) or § 761.61(a)(5)(i)(B)(2)(iii).

- d. Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846 for solid matrices and Method 3500B/3510C of SW-846 for aqueous matrices; and, chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction and/or analytical method(s) is validated according to Subpart Q.

13. PCB waste generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be disposed of in accordance with 40 CFR § 761.61(a)(5), unless otherwise specified below:

- a. Non-liquid cleaning materials, such as PPE and similar materials resulting from decontamination, shall be disposed of in accordance with 40 CFR § 761.79(g)(6).



- b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
- c. PCB-contaminated water generated during decontamination or dewatering shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.70.

#### **INSPECTION, MODIFICATION AND REVOCATION CONDITIONS**

- 14. Massport shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by Massport to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
- 15. Any modification(s) in the plan, specifications, or information submitted by Massport, contained in the Notification, and forming the basis upon which this Approval has been issued, must receive prior written approval from the EPA. Massport, as applicable, shall inform the EPA of any modification, in writing, at least 10 days prior to such change. No action may be taken to implement any such modification unless the EPA has approved of the modification, in writing. The EPA may request additional information in order to determine whether to approve the modification.

If such modification involves a change in the use of the Site which results in exposures not considered in the Notification, the EPA may revoke, suspend, and/or modify this Approval if it finds that this risk-based cleanup and disposal action may pose an unreasonable risk of injury to health or the environment due to the change in use. EPA may take similar action if the EPA does not receive requested information from Massport, as applicable, needed to make a determination regarding potential risk.

- 16. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
- 17. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.



18. Approval for these activities may be revoked, modified or otherwise altered at any time EPA finds a violation of the conditions of this Approval or of 40 CFR Part 761 or other applicable rules and regulations; if EPA finds that these activities present an unreasonable risk to public health or the environment; or if EPA finds that changes are necessary to comply with new rules, standards, or guidance for such approvals. Massport may apply for such a modification in the event new rules, standards, or guidance come into effect.

### **RECORDKEEPING AND REPORTING CONDITIONS**

19. Massport shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required under Subparts J and K. Massport shall maintain a written record of the work authorized under this Approval and the analytical sampling for activities conducted under this Approval, in one centralized location. All records shall be made available for inspection by authorized representatives of the EPA, until such time as EPA approves in writing a request for an alternative disposition of such records.
20. Massport shall submit a Final Completion Report (Report) to the EPA within 60 days of completion of the activities described under this Approval. At a minimum, this Report shall include: a short narrative of the project activities; characterization and confirmation sampling analytical results; copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCBs removed and disposed of off-site; copies of manifests; and copies of certificates of disposal or similar certifications issued by the disposer, as applicable. Massport shall also submit any additional report required under the MCP regulations.
21. Required submittals shall be mailed to:
- Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
1 Congress Street, Suite 1100 - CPT  
Boston, Massachusetts 02114-2023  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527
22. Massport shall conduct cap maintenance as described in the AUL. If any changes or modifications are required to the AUL to document the redevelopment activities and/or the activities conducted under this Approval, a copy of the modified and/or revised AUL shall be submitted to EPA.



23. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self disclosure or penalty policies.
24. Nothing in this Approval is intended or is to be construed to prejudice any right or remedy concerning PCBs or other federally-regulated contaminants at the Site otherwise available under Section 6 of TSCA, 15 U.S.C. § 2605, 40 CFR Part 761, or other provisions of federal law.

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**END OF ATTACHMENT 1**





## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

### **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**JUN 28 2010**

James T. Wagner, Project Manager  
Tri-County Community Action Program, Inc.  
c/o Northern Forest Heritage Park  
961 Main Street  
Berlin, New Hampshire 03570

Re: PCB Self Implementing Cleanup and Disposal Approval under 40 CFR § 761.61(a)  
Former Brown Paper Company Research & Development Building  
Berlin, New Hampshire

Dear Mr. Wagner:

This is in response to the Notification<sup>1</sup> by the Tri-County Community Action Program, Inc. (TCCAP) of a proposed PCB cleanup at the former Brown Street Paper Company Research & Development Building, located at 912 Main Street, Berlin, New Hampshire. Building materials, soils and sediments located at the Site are contaminated with PCBs that exceed the allowable PCB levels for unrestricted use under the federal PCB regulations at 40 CFR § 761.61(a).

In the Notification TCCAP is proposing the following PCB cleanup and disposal activities:

- Remove greater than (>) 1 ppm PCB-contaminated building materials located on the second floor of the East Wing Building;
- Remove > 1 ppm soils/sediments located at the East Wing building patio, patio drain outfall, loading dock, and transformer pad area;
- Remove PCB fluorescent light ballasts; and,
- Remove 2-feet of PCB-contaminated soils/sediments located on the southeast corner of the West Wing Building followed by installation of a compliant cap under § 761.61(a)(7) and fencing.<sup>(1)</sup>

<sup>1</sup> Information was submitted by the New Hampshire Department of Environmental Services (NH DES) and Sanborn, Head & Associates, Inc. on behalf of TCCAP to support the notification requirement under 40 CFR § 761.61(a)(3). Information was submitted dated May 26, 2010 and will be referred to as the "Notification."



With respect to the paint which has PCB concentrations at less than ( $<$ ) 50 ppm, TCCAP has determined that the paint meets the definition of an *Excluded PCB Product* as defined at 40 CFR § 761.3. As such, cleanup and disposal of this paint and associated building materials are not addressed in this Approval. In its Notification TCCAP has indicated that the paint will be removed and disposed of in accordance with the New Hampshire Department of Environmental Services (NH DES) statutes. Please be aware that should TCCAP determine that the paint does not meet the criteria for an *Excluded PCB Product*, cleanup and disposal of the paint and associated contaminated building materials are regulated under 40 CFR Part 761.

TCCAP may proceed with its project in accordance with 40 CFR § 761.61(a); its Notification; and, this Approval, subject to the conditions of Attachment 1. Please note that upon completion of the activities authorized under this Approval, TCCAP will be required to record a notation with the property's deed, which will identify the PCB contamination remaining at the Site (see Attachment 1, Condition 22).

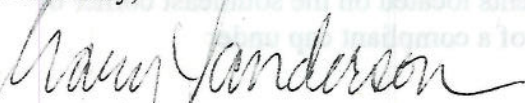
Questions and correspondence on this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100 (OSRR07-2)  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527

Please note that this Approval only addresses PCB contamination located on the second floor of East Wing Building and in certain exterior locations as identified in the Notification. As PCBs exceeding the allowable concentrations for unrestricted use are present in other locations on the property, including the West Wing Building, a separate plan(s) to address this contamination shall be submitted in accordance with 40 CFR § 761.61.

EPA shall not consider this project complete until it has received all submittals required under this Approval. Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,



Mary Sanderson, Chief  
Remediation & Restoration II Branch

cc K. DuBois, NH DES  
L. Kelly, TCCAP  
C. Lombard, EPA Brownfields

Attachment 1



**ATTACHMENT 1: PCB CLEANUP AND DISPOSAL APPROVAL CONDITIONS  
FORMER BROWN PAPER COMPANY RESEARCH AND  
DEVELOPMENT BUILDING  
BERLIN, NEW HAMPSHIRE**

**GENERAL CONDITIONS**

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to *PCB remediation waste* identified in the Notification. Specifically, this Approval addresses the following PCB contaminated areas:
  - a. East Wing Building second floor Chemical Storage Area, hallway, bathroom, and interior pipe chase trench area;
  - b. Soils/sediments located at the East Wing Building patio, patio drain outfall, loading dock, and transformer pad area; and,
  - c. Soils/sediments located on the southeast corner of the West Wing Building.
2. Tri-County Community Action Program, Inc. (TCCAP) shall conduct on-site activities in accordance with the conditions of this Approval and the Notification.
3. In the event that the activities described in the Notification differ from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. TCCAP must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during response actions, TCCAP shall contact EPA within twenty-four (24) hours for direction on sampling and cleanup requirements.
6. TCCAP is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time TCCAP has or receives information indicating that TCCAP or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within twenty-four (24) hours of having or receiving the information.



7. This Approval does not constitute a determination by EPA that the contractors, transporters or disposal facilities selected by TCCAP are authorized to conduct the activities set forth in the Notification. TCCAP is responsible for ensuring that its selected contractors, transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
8. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release TCCAP from compliance with any applicable requirements of federal, state or local law; or 3) release TCCAP from liability for, or otherwise resolve any violations of federal, state or local law.

### **CERTIFICATION AND NOTIFICATION CONDITIONS**

9. This Approval may be revoked if the EPA does not receive written notification from TCCAP of its acceptance of the conditions of this Approval within 10 business days of receipt.
10. TCCAP shall notify EPA in writing of the scheduled date of commencement of on-site activities at least 1 business day prior to conducting any work under this Approval.
11. Prior to initiating onsite work under this Approval, TCCAP shall submit the following information for EPA review and/or approval:
  - a. a certification signed by its selected contractor, stating that the contractor(s) has read and understands the Notification, and agrees to abide by the conditions specified in this Approval;
  - b. a contractor work plan, prepared and submitted by the selected contractor(s), detailing the procedures that will be employed for cleanup of PCB-contaminated wastes at the Site. This work plan should also include information on waste storage, handling, and disposal for each waste stream type; and,
  - c. a certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the analytical and quality assurance requirements specified in the Notification and in this Approval.



## CLEANUP AND DISPOSAL CONDITIONS

12. The PCB cleanup standard for *porous surfaces* (e.g. wood floor, concrete, etc.) shall be less than or equal to 1 part per million ( $\leq 1$  ppm).
  - a. All post-decontamination verification sampling of *porous surfaces* shall be performed on a bulk basis (i.e. mg/Kg) and analytical results shall be reported on a dry weight basis. Samples shall be collected according to EPA's draft Standard Operating Procedure For Sampling Concrete in the Field, dated 12/30/97 to a maximum depth of 0.5 inches. Samples shall be collected in accordance with the 40 CFR Part 761 Subpart O frequency requirements.
  - b. Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846 and chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction and/or analytical method(s) is validated according to Subpart Q.
  - c. For decontaminated *porous surfaces* that have PCB concentrations exceeding the decontamination standard, TCCAP may conduct additional decontamination to achieve the required decontamination standard.
13. The PCB cleanup standard for soils shall meet the requirements under § 761.61(a)(4) for a *high occupancy area* cleanup or *low occupancy area* cleanup as specified in the Notification.
  - a. Soil samples shall be collected on a bulk basis (i.e. mg/Kg) and PCB analytical results shall be reported on a dry weight analysis. Sampling shall be conducted in accordance with 40 CFR Part 761, Subpart O.
  - b. Chemical extraction for PCBs shall be conducted using Method 3500B/3540C of SW-846 and chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another method(s) is validated according to Subpart Q.
14. PCB waste (at any concentration) generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be marked in accordance with 40 CFR § 761.40; stored in a manner consistent with 40 CFR § 761.65; and, disposed of in accordance with 40 CFR § 761.61, unless otherwise specified below.
  - a. Decontamination wastes and residues shall be disposed of in accordance with 40 CFR § 761.79(g).
  - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).



- c. PCB-contaminated water generated during decontamination or dewatering shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.60.
15. To the maximum extent practical, engineering controls shall be utilized to minimize the potential for PCB releases during the cleanup. In addition, to the maximum extent possible, disposable equipment and materials, including PPE, will be used to reduce the amount of decontamination necessary.

#### **INSPECTION, MONITORING, MODIFICATION AND REVOCATION CONDITIONS**

16. TCCAP shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by TCCAP to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
17. Any proposed modification(s) in the plan, specifications, or information in the Notification must be submitted to EPA no less than 14 calendar days prior to the proposed implementation of the change. Such proposed modifications will be subject to the procedures of 40 CFR § 761.61(a)(3)(ii).
18. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
19. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.

#### **RECORDKEEPING AND REPORTING CONDITIONS**

20. TCCAP shall prepare and maintain all records and documents required by 40 CFR Part 761, including, but not limited to, the records required by Subparts J and K. TCCAP shall maintain a written record of and the analytical sampling for the activities conducted under this Approval. All records shall be made available for inspection by authorized representatives of the EPA, until such time as EPA approves in writing a request for an alternative disposition of such records.

21. TCCAP shall submit a final report to EPA within 60 days of completion of the activities authorized under this Approval. At a minimum, this final report shall include: a narrative of the cleanup activities; characterization and confirmation sampling analytical results; copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCB waste disposed of; the size of the remediation area(s); copies of manifests and/or bills of lading; and copies of certificates of disposal or similar certifications issued by the disposer.
22. Within 60 days of completion of the cleanup activities described in the Notification and authorized by this Approval, and as required under § 761.61(a)(8)(i)(B), TCCAP shall submit to EPA a certification, signed by an TCCAP approving official, that it has recorded the notation on the deed as required under § 761.61(a)(8)(i)(A). A copy of the notation on the deed must also be submitted.
23. Required submittals shall be mailed to:  
  
Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100 (OSRR07-2)  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527
24. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self disclosure or penalty policies.

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END OF ATTACHMENT 1